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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/673,932

09/29/2003

Teck Hu

17

1634

7590 04/23/2007  
Docket Administrator (Room 3J-219)  
Lucent Technologies Inc.  
101 Crawfords Corner Road  
Holmdel, NJ 07733-3030

EXAMINER

NGUYEN, KHAI MINH

ART UNIT

PAPER NUMBER

2617

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/23/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/673,932	HU, TECK	
	<b>Examiner</b>	<b>Art Unit</b>	
	Khai M. Nguyen	2617	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 February 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,6-16 and 18-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-13 is/are allowed.
- 6) ☒ Claim(s) 1-3,6,14-16, and 18-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 2/15/2007 have been fully considered but they are not persuasive.

Regarding claims 1-3, 6-16, and 18-24, Applicant argues, on pages 7-9 of the remarks, that Koulakiotis and ETSI do not disclose, teaches or suggests "assigning at least one service rate to at least one of a plurality of subscription-based service types in response to at least one of the determined geographical distribution and the determined subscription distribution, and determined geographical distribution of a number of multicast service subscribers and a determined subscription distribution of the number of multicast service subscribers within the cell ".

The Examiner respectfully disagrees with Applicant's argument because Koulakiotis and ETSI clearly discloses assigning at least one service rate to at least one of a plurality of subscription-based service types in response to at least one of the determined geographical distribution and the determined subscription distribution (see ETSI, fig.2, section 4.2, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising (the Multimedia Broadcast/Multicast Service (MBMS) will provide this capability for such broadcast/multicast services provided by the home environment (cell or sector)), and determined geographical distribution of a number of multicast service subscribers (see ETSI, fig.2, pages 7-8, section 4.2, and section 4.2.1, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising

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(the Multimedia Broadcast/Multicast Service (MBMS) will provide this capability for such broadcast/multicast services provided by the home environment (cell or sector)) and a determined subscription distribution of the number of multicast service subscribers within the cell (see ETSI, home environment (cell or sector)) (see ETSI, fig.2, section 4.2, section 4.2.1, and section 5.2.1, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising (The multicast mode allows the unidirectional point-to-multipoint transmission of multimedia data (e.g. text, audio, picture, video) from a single source point to a multicast group in a multicast area. The multicast mode is intended to efficiently use radio/network resources e.g. data is transmitted over a common radio channel. Data is transmitted to multicast areas as defined by the network (Home environment or cell or sector). In the multicast mode there is the possibility for the network to selectively transmit to cells within the multicast area which contain members of a multicast group).

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1, 15 are rejected under 35 U.S.C. 102(a) as being anticipated by ETSI TS 122 146 V.5.2.0 (2002-2003).

Regarding claim 1, ETSI teaches a method of wireless communication with a number of subscribers to a subscription-based service (fig.2, pages 7-8, section 4.2), the method comprising:

determining the number of multicast service subscribers within a cell (home environment) (fig.2, section 4.2, section 4.2.1, and section 5.2.1, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising);

determining at least one of a geographical distribution of a number of multicast service subscribers (fig.2, section 4.2, section 4.2.1, and section 5.2.1, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising) and a subscription distribution of the number of multicast service subscribers within the cell (home environment) (fig.2, pages 7-8, section 4.2, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising); and

assigning at least one service rate to at least one of a plurality of subscription-based service types (fig.2, section 4.2, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising) in response to at least one of channel conditions (pages 8-9, section 4.2.1, section 4.3), power requirements, service subscription type, desired content, other services and equipment class of each subscriber (pages 9-10, section 5.1.1-5.1.2).

Regarding claim 15, ETSI teaches a method of wireless communication comprising:

receiving a subscription-based service at an assigned service rate (section 5.1.2), the assigned service rate corresponding with at least one of plurality of service subscription types and at least one of desired content (fig.2, section 4.2, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising), channel conditions, power requirements, other services and equipment class (pages 8-9, section 4.2.1, section 4.3), and further corresponding to at least one of a determined geographical distribution of a number of multicast service subscribers (fig.2, pages 7-8, section 4.2, and section 4.2.1, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising) and a determined subscription distribution of the number of multicast service subscribers within the cell (fig.2, section 4.2, section 4.2.1, and section 5.2.1, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-3, 6, 14,16, and 18-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over ETSI TS 122 146 V.5.2.0 (2002-2003) in view of Koulakiotis et al. (U.S.Pub-20030104801).

Regarding claim 2, ETSI teaches the method of claim 1, wherein the subscription-based service comprises at least a multicast service (fig.2, section 4.2, section 4.2.1, and section 5.2.1, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising),

ETSI fails to specifically disclose the at least one service rate comprises at least one multicast rate, and said at least one of the subscription-based service type comprises at least a multicast service subscription type. However, Koulakiotis teaches the at least one service rate comprises at least one multicast rate (paragraph 0008, 0015-0016), and at least one of the subscription-based service type comprises at least a multicast service subscription type (paragraph 0006, 0068). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the teaching of Koulakiotis to ETSI to providing a service to a user comprising the steps of defining an area in which the service is available.

Regarding claim 3, Koulakiotis and ETSI further teach the method of claim 2, wherein the multicast service subscription type comprises at least one of a basic type and a premium type (see Koulakiotis, paragraph 0006, see ETSI, fig.2, pages 7-8, section 4.2, and section 4.2.1, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising).

Regarding claim 6, Koulakiotis and ETSI further teach the method of claim 2, comprising: multicasting information to each of the multicast service subscribers at each multicast service subscription type's assigned multicast rate (see Koulakiotis, paragraph 0006, 0068, see ETSI, fig.2, pages 7-8, section 4.2, and section 4.2.1, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising).

Regarding claim 14, Koulakiotis and ETSI further teach the method of claim 2, wherein the other services comprises at least one of voice, HSDPA and HSUPA (see ETSI, fig.2, pages 7-8, section 4.2, and section 4.2.1, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising).

Regarding claim 16, ETSI teaches the method of claim 15,

ETSI fails to specifically disclose the subscription-based service comprises at least a multicast service, the at least one service rate comprises at least one multicast rate, and the service subscription type comprises at least a multicast service subscription type. However, Koulakiotis teaches the subscription-based service comprises at least a multicast service (paragraph 0006), the at least one service rate comprises at least one multicast rate (paragraph 0008, 0015-0016), and the service subscription type comprises at least a multicast service subscription type (paragraph 0006, 0068). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the teaching of Koulakiotis to ETSI to



providing a service to a user comprising the steps of defining an area in which the service is available.

Regarding claim 18, Koulakiotis and ETSI further teach the method of claim 16, wherein the multicast service subscription type comprises at least one of a basic type and a premium type (see Koulakiotis, paragraph 0006).

Regarding claim 19, Koulakiotis and ETSI further teach the method of claim 16, comprising: prioritizing the other services and the multicast service subscription service (see Koulakiotis, fig.3, paragraph 0007, 0029-0030).

Regarding claim 20, Koulakiotis and ETSI further teach the method of claim 19, comprising: scaling the multicast service subscription types available for assigning in response to a change in demand for the other services (see Koulakiotis, paragraph 0006, 0068).

Regarding claim 21, Koulakiotis and ETSI further teach the method of claim 20, wherein the step of scaling comprises at least one of dropping and adding support for at least one of the multicast service subscription types (see Koulakiotis, paragraph 0030-0032).

Regarding claim 22, Koulakiotis and ETSI further teach the method of claim 21, wherein the demand corresponds with at least one of power, channelization codes, and subscription fees (see ETSI, fig.2, pages 7-8, section 4.2, and section 4.2.1, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising).

Regarding claim 23, Koulakiotis and ETSI further teach the method of claim 19, wherein the other services comprises at least one of voice, HSDPA and HSUPA (see ETSI, fig.2, pages 7-8, section 4.2, and section 4.2.1, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising).

Regarding claim 24, Koulakiotis and ETSI further teach the method of claim 16, wherein the equipment class corresponds with at least one supporting channelization code (see ETSI, fig.2, pages 7-8, section 4.2, and section 4.2.1, multimedia service, operator specific services, movie/music streaming, live web casting, TV news/sports/advertising).

***Allowable Subject Matter***

4. Claims 7-13 are allowed.

Applicant's independent claim 7: The present in invention is directed to a method of wireless communication with a number of subscribers to a subscription-based service, the independent claim identifies the patentably distinct feature "prioritizing the assigning of the at least one multicast rate to support the multicasting information to at least one of a maximum number of multicast service subscribers, a maximum number of multicast service subscribers having the premium service type, and a maximum number of multicast service subscribers having the basic service type; and multicasting information to each of the multicast service subscribers at each multicast service subscription type's assigned multicast rate". Applicant's independent claim 7 comprises a particular combination of elements, which is neither taught nor-suggested by prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submission should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

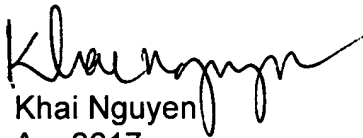
5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khai M. Nguyen whose telephone number is 571.272.7923. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on 571.272.4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Khai Nguyen  
Au: 2617

4/14/2007

  
JOSEPH FEILD  
SUPERVISORY PATENT EXAMINER